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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO.       |
|---|-------------|----------------------|------------------------------|------------------------|
| 10/520,110  | 01/03/2005  | Jonathan Olaf Hudson | 4783-001                     | 9530                   |
| 22429 7590 01/02/2008<br>LOWE HAUPTMAN HAM & BERNER, LLP<br>1700 DIAGONAL ROAD<br>SUITE 300<br>ALEXANDRIA, VA 22314 |             |                      | EXAMINER<br>HICKS, CHARLES N |                        |
|   |             |                      | ART UNIT<br>2623             | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>01/02/2008      | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                       |  |
|------------------------------|------------------------|-----------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>   |  |
|                              | 10/520,110             | HUDSON, JONATHAN OLAF |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>       |  |
|                              | Charles N. Hicks       | 2623                  |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 38-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 38-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US Patent No. 6,774,926 B1), hereinafter referred to as Ellis, in view of Inselberg (US 2002/0029381 A1), hereinafter referred to as Inselberg.
4. Regarding claim 38, Ellis discloses a television format involving the steps of:
  - b) receiving a plurality of presentations showing segments in picture or video form, each received segment being based on an interpretation of said clues (**fig. 4-8, col. 8, lines 27-68**):
  - c) selecting at least one of said presentations for broadcast (**fig. 4-9, col. 9, lines 31-46**).

However Ellis fails to disclose a television format involving the steps of a) distributing clues defining a situation to be broadcast as a television segment.

Inselberg discloses a television format involving the steps of a) distributing clues defining a situation to be broadcast as a television segment (**fig. 2, pg. 2, paragraph 24**). One would be motivated to combine the references due to the fact the both inventions formulate presentations based on response and interaction from the user. The invention would have been obvious to one of ordinary skill in the art at the time of the invention.

5. Regarding claim 39, Ellis discloses the format including the step of providing a channel for receiving a home based presentation (**fig. 9-10, col. 9, lines 61-68, col. 10, lines 1-17**).

6. Regarding claim 40, Ellis discloses the format wherein selection of a received segment for broadcast is based on a best fit with the situation defined by the clues (**fig. 4-9, col. 9, lines 26-46**).

7. Regarding claim 41, Ellis discloses the format wherein selection of a received segment for broadcast is based on a least best fit with the situation defined by the clues (**fig. 4-9, col. 9, lines 26-46**).

8. Regarding claim 42, Ellis discloses the format wherein a selection of a received segment for broadcast is based on a perverse or contrary fit with the situation defined by the clues (**fig. 11-12, col. 10, lines 50-68**).

9. Regarding claim 43, Inselberg discloses the format wherein said selection is competitive (**fig. 2, pg. 1, paragraph 11**).

10. Regarding claim 44, Inselberg discloses a method of doing business including the steps of generating revenue from contestant submission of program material to be broadcast **See paragraphs 27 and 28.**

11. Regarding claim 45, Ellis discloses a method of configuring picture or video data to be broadcast including the steps of collection said data at a remote site, transmitting said data in a compressed format in accordance with a first standard to a program creation suite, using said data to create a program segment, and broadcasting said data in accordance with a second standard (**fig. 7-11, col. 10, lines 17-44**).

12. Regarding claim 46, Ellis discloses a method of assembling program material involving the steps of:

d) distributing clues defining or alluding to content to be broadcast as a television segment or assembled for that potential purpose;

e) receiving a plurality of content presentations, received content being based on an interpretation of said clues **fig. 4-8, col. 8, lines 27-68**);

and f) forming said received content into an assemblage of material for broadcast (**fig. 4-9, col. 9, lines 31-46**).

However Ellis fails to disclose a method of assembling program material involving the steps of: d) distributing clues defining or alluding to content to be broadcast as a television segment or assembled for that potential purpose. Inselberg discloses d) distributing clues defining or alluding to content to be broadcast as a television segment or assembled for that potential purpose (**fig. 2, pg. 2, paragraph 24**). One would be motivated to combine the references due to the fact the both

inventions formulate presentations based on response and interaction from the user.

The invention would have been obvious to one of ordinary skill in the art at the time of the invention.

13. Regarding claim 47, Ellis discloses a method of receiving program content including the step of collecting data regarding content submitters including personal; equipment or content type (**fig. 11-12, col. 10, lines 45-68**).

***Claim Rejections - 35 USC § 101***

14. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention is directed to non-statutory subject matter. Claims 38-43 are directed towards a television format which does not fit into any statutory class.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bruckner (US 2005/0015796 A1) discloses a method for managing interactive programming in broadcast systems. Freeman (US 2004/0261127 A1) discloses a digital system for full interactivity with programming events. Newnam (US 2003/0189668 A1) discloses a system for coordinating interactive television programs.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Hicks whose telephone number is 571-272-3010. The examiner can normally be reached on M-F 7:30AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNH

  
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